

**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

ZURICH AMERICAN INSURANCE COMPANY,

**Plaintiff,
v.**

**Civil Action No. 3:06-CV-70
(Judge Bailey)**

**BEVERLY HILDRETH and JANE DOE,
Administratrix of the Estate of
Lyle J. Knipple,**

Defendants.

ORDER DENYING MOTION FOR SUMMARY JUDGMENT

Pending before this Court is Defendant Beverly Hildreth's Motion for Summary Judgment (Doc. 127). In that Motion, defendant Hildreth seeks summary judgment on the basis that plaintiff Zurich owes uninsured motorist coverage to her in an underlying civil action which occurred on or about February 15, 2005, and in which her son, Jody Lee Lucas, suffered catastrophic injuries. Having reviewed the motion and the memoranda of counsel and the attachments thereto, this Court is of the opinion that the motion should be denied.

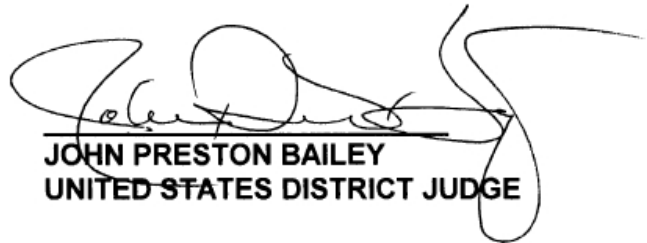
In order to prevail on the claim for uninsured insurance benefits, it is incumbent that Ms. Hildreth demonstrate that her son was operating the vehicle in question with a reasonable belief that he was entitled to do so. It would appear that Mr. Lucas had a personal, subjective belief that he was entitled to operate the vehicle for a personal trip to the store on February 15, 2005, but this Court is of the opinion that there exists a genuine issue of material fact as to whether that belief was, in fact, reasonable.

Accordingly, the Defendant's Motion for Summary Judgment (Doc. 127) is **DENIED**.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record herein.

DATED: February 25, 2008.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE